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Attorneys for Defendant and Counterclaim-  
Plaintiff Sears Holdings Management  
Corporation, erroneously sued as Sears  
Holdings, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BIALLA & ASSOCIATES, INC.,  
  
Plaintiff,  
  
v.  
  
SEARS HOLDINGS, INC. AND DOES 1  
THROUGH 10, INCLUSIVE,  
  
Defendant.

AND RELATED COUNTERCLAIMS.

Case No. 08-03529 MMC

**STIPULATION AND ~~PROPOSED~~  
ORDER DISMISSING COMPLAINT AND  
COUNTERCLAIMS WITH PREJUDICE**

Pursuant to the Parties' agreement, Plaintiff and Counterclaim-defendant Bialla & Associates, Inc. ("Bialla"), on the one hand, and Defendants and Counterclaim-plaintiff Sears Holdings Management Corporation, erroneously sued as Sears Holdings, Inc. ("Sears"), on the other hand, by and through their respective counsel of record, hereby stipulate and agree pursuant to Fed. R. Civ. P. 41(a) that the above-captioned action, including all claims and counterclaims therein, is hereby dismissed with prejudice, with each party to bear its own expenses, costs, and attorneys' fees.

Dated: December 30, 2008

FENWICK & WEST LLP

By: /s/ Jennifer L. Kelly

Jennifer L. Kelly

Attorneys for Plaintiff and Counterclaim-defendant Bialla & Associates, Inc.

Dated: December 30, 2008

GLYNN & FINLEY LLP

By: /s/ Clement L. Glynn

Clement L. Glynn

Attorneys for Defendant and Counterclaim-plaintiff Sears Holdings Management Corporation, sued as Sears Holdings, Inc.

**ATTESTATION PURSUANT TO GENERAL ORDER 45**

I, Jennifer L Kelly, attest that concurrence in the filing of this document has been obtained from any signatories indicated by a "conformed" signature (/s/) within this e-filed document.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 30, 2008

FENWICK & WEST LLP

By: /s/ Jennifer L. Kelly

Jennifer L. Kelly


Attorneys for Plaintiff Bialla & Associates, Inc.

**~~PROPOSED~~ ORDER DISMISSING COMPLAINT AND  
COUNTERCLAIMS WITH PREJUDICE**

The parties having so stipulated, IT IS ORDERED that the above-captioned action, including all claims and counter-claims therein, is hereby dismissed with prejudice, with each party to bear its own expenses, costs, and attorneys' fees.

IT IS SO ORDERED.

January 5, 2009  
Dated: ~~December~~ \_\_\_\_\_, 2008

By:   
The Honorable Maxine M. Chesley  
United States Magistrate Judge

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO